

## CHAPTER 3

### ASSESSOR CONDUCT

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The quality and integrity of every on-site assessment is significantly dependent on the ability of the assessor to maintain high standards of professional conduct throughout the assessment process. This Chapter discusses the key aspects of assessor conduct, including:

- Standards of ethical conduct for NELAC on-site assessors;
- Requirements for maintaining confidentiality of information obtained during on-site assessments; and

In general, the policies, guidance and requirements presented in this Chapter reflect the high standards of conduct that must be followed to ensure both the consistency and quality of NELAC assessments. As such, they are an element of NELAC that is essential to maintaining reciprocity among NELAP-approved accrediting authorities. Consequently, monitoring the extent to which NELAC assessors adhere to the policies and requirements described in this Chapter will be a significant aspect of the NELAP approval process for accrediting authorities.

#### 3.1 Standards of Ethical Conduct for NELAC Assessors

NELAC assessors must adhere to the following general standards for ethical conduct:

1. Assessors shall put forth honest effort in performance of their duties.
2. Assessors shall act impartially and not give preferential treatment to any organization or individual.
3. Assessors shall provide equal treatment to all persons and organizations regardless of race, color, religion, sex, national origin, age, or handicap.
4. Assessors shall not use their position for private gain outside the scope of their employment..
5. Assessors shall not solicit or accept any gift or other item of monetary value from any laboratory, laboratory representative or other affected individual or organization doing business with or affected by the actions of the assessor's employer or accrediting authority.
6. Assessors shall not hold financial interests that conflict with the conscientious performance of their duties.
7. Assessors shall not engage in financial transactions using information gained through their positions to further any private interest.
8. Assessors shall not engage in employment or activities, including seeking or

negotiating for employment, that conflict with their duties and responsibilities as assessors.

9. Assessors shall not knowingly make unauthorized commitments or promises of any kind purporting to bind their organizations or accrediting authorities.
10. Assessors shall endeavor to avoid any actions creating the appearance that they are violating any of the standards for ethical conduct applicable to NELAC on-site assessors.
11. Assessors shall not establish a business relationship with a company they have assessed for a period of one year after the assessment.

These standards are based on the Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR 2635), which apply to employees of the Federal government. State governments typically utilize similar standards of conduct to govern their employees. Consequently, it is anticipated that NELAC assessors who are employees of state or Federal government organizations will be familiar with and already practicing similar standards of conduct. The Standards of Ethical Conduct for NELAC Assessors apply to all NELAC assessors, however, whether government employees or employees of third party organizations conducting NELAC assessments under an agreement with a NELAP-approved accrediting authority.

For purposes of interpreting standards items 6 and 8 of the Assessor Ethical conduct Standards, a conflict of interest is defined as a relationship with an entity that may impair the objectivity of the assessor in performing his or her responsibilities. Most state and Federal government organizations should have policies requiring that employees report outside activities that might constitute a personal conflict of interest. Personal conflicts of interest may also arise and must be carefully monitored in programs where third party organizations are used to conduct on-site assessments. In such cases, assessors who are employees or are working under contract to the third party organization may be required to disclose any potential conflicts of interest on a periodic basis, when they become known, and/or prior to making staff assignments for individual laboratory assessments.

### **3.2 Confidentiality of Information**

Section 3.4.5 of the NELAC standards addresses Confidential Business Information (CBI) considerations in conducting on-site assessments. This section requires that:

- Assessors provide a confidentiality notice to laboratory representatives at the start of each on-site assessment to inform laboratory officials of their right to claim information as CBI;
- Assessors and any others who may have access to CBI resulting from on-site assessments be trained in proper procedures for handling CBI;
- Assessors be familiar with procedures for asserting a claim of CBI;
- Assessors take possession of all CBI documents at the close of an on-site assessment

and retain custody of the documents until the designated official at the accrediting authority takes custody of the documents;

- Laboratory officials mark all documents claimed as CBI, either with a cover page or a stamp on the first page indicating that the document is “trade secret”, “proprietary”, “company confidential”, or other suitable designation;
- All CBI documents be held in a secure manner by the accrediting authority and not distributed.

The standards also make the following key points:

- Claims of CBI may be made after the on-site assessment by notifying the accrediting authority. In such cases, the accrediting authority may not be able to assure that disclosure has not occurred.
- On-site assessors are not responsible for making any determinations with respect to the validity of any CBI claim.
- Laboratories must be notified in writing in the event that the accrediting authority determines that a CBI claim is not warranted and proposes to declassify it.

In cases where the accrediting authority challenges a CBI claim, the laboratory must be notified of the challenge and allowed 15 working days to do one of the following:

- Address the challenge by providing written justification of the CBI claim;
- Retract the CBI claim;
- Propose a resolution to the issue in a manner that is suitable to both parties;
- Determine whether to pursue administrative or legal relief; or
- Withdraw their application for NELAC accreditation.

Accrediting authorities must have training programs, policies, and administrative and functional operating procedures for handling CBI, which will be utilized by on-site assessors. It is anticipated that these programs will be substantially similar to those used by EPA programs.